

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

JONATHAN CARTU, RYAN MASTEN,
LEEAV PERETZ, NATI PERETZ, BLUE
MOON INVESTMENTS, LTD., AND
BAREIT MEDIA LLC D/B/A
SIGNALPUSH

1:20-CV-908-RP

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT JONATHAN
CARTU**

Defendant Jonathan Cartu (“Cartu”) by way of answer to the First Amended Complaint, dated March 3, 2023, Dkt. No. 93 (the “FAC”) of Plaintiff Commodity Futures Trading Commission (“CFTC”), hereby states as follows:

I. SUMMARY¹

1. Denied.
2. Cartu denies the allegations of paragraph 2 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 2.
3. Cartu denies the allegations of paragraph 3 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 3.

¹ Cartu uses the headings set forth in the FAC solely for the Court’s ease of reference. Cartu denies the allegations contained in the headings unless expressly admitted.

4. Cartu denies knowledge or information sufficient to respond to the allegations in paragraph 4.

5. Cartu denies the allegations of paragraph 5 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 5.

6. Cartu denies the allegations of paragraph 6 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 6.

7. Cartu denies the allegations of paragraph 7 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 7.

8. Cartu denies the allegations of paragraph 8 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 8.

9. Cartu denies the allegations of paragraph 9 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 9.

a. Cartu denies the allegations of paragraph 9(a) as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 9(a).

b. Cartu denies the allegations of paragraph 9(b) as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 9(b).

c. Cartu denies the allegations of paragraph 9(c) as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 9(c).

10. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 10.

11. Cartu denies the allegations of paragraph 11 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 11.

12. Cartu denies the allegations of paragraph 12 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 12.

II. JURISDICTION AND VENUE

13. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 13.

14. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 14.

III. PARTIES

15. Admitted.

A. Individual Defendants

16. Admitted that Cartu was born in 1983, is a Canadian citizen, and resided in Israel during the Relevant Period. Otherwise, denied.

17. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 17.

18. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 18.

19. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 19.

B. Corporate Defendants

20. Cartu denies the allegations of paragraph 20 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 20.

21. Cartu denies the allegations of paragraph 21 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 21.

C. Related Entities and Fictitious Binary Brands

22. Cartu denies the allegations of paragraph 22 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 22.

23. Cartu denies the allegations of paragraph 23 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 23.

24. Cartu denies the allegations of paragraph 24 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 24.

25. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 25.

26. Cartu denies the allegations of paragraph 26 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 26.

27. Cartu denies the allegations of paragraph 27 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 27.

28. Cartu denies the allegations of paragraph 28 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 28.

29. Cartu denies the allegations of paragraph 29 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 29.

30. Cartu denies the allegations of paragraph 30 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 30.

31. Cartu denies the allegations of paragraph 31 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 31.

IV. STATUTORY BACKGROUND

A. Prohibition Against Off-Exchange Options Trading

32. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 32.

33. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 33.

B. Prohibitions Against Fraud

34. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 34.

i. Options Fraud

35. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 35.

36. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 36.

ii. Swaps Fraud

37. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 37.

38. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 38.

C. Regulation Requirements

39. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 39.

40. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 40.

41. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 41.

42. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 42.

V. FACTS

A. Overview of Binary Options and Relevant Terms

43. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 43.

44. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 44.

45. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 45.

46. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 46.

47. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 47.

48. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 48.

B. Overview of the Cartu Enterprise

49. Cartu denies the allegations of paragraph 49 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 49.

50. Cartu denies the allegations of paragraph 50 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 50.

51. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 51.

52. Cartu denies the allegations of paragraph 52 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 52.

53. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 53.

54. Cartu denies the allegations of paragraph 54 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 54.

55. Cartu denies the allegations of paragraph 55 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 55.

56. Cartu denies the allegations of paragraph 56 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 56.

57. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 57.

58. Cartu denies the allegations of paragraph 58 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 58.

59. Cartu denies the allegations of paragraph 59 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 59.

C. Operation of the Cartu Brands

60. Cartu denies the allegations of paragraph 60 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 60.

61. Cartu denies the allegations of paragraph 61 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 61.

62. Cartu denies the allegations of paragraph 62 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 62.

63. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 63.

64. Cartu denies the allegations of paragraph 64 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 64.

65. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 65.

66. Cartu denies the allegations of paragraph 66 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 66.

67. Cartu denies the allegations of paragraph 67 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 67.

68. Denied.

69. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 69.

70. Cartu denies the allegations of paragraph 70 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 70.

71. Cartu denies the allegations of paragraph 71 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 71.

72. Denied.

73. Cartu denies the allegations of paragraph 73 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 73.

74. Cartu denies the allegations of paragraph 74 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 74.

75. Cartu denies the allegations of paragraph 75 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 75.

76. Cartu denies the allegations of paragraph 76 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 76.

77. Cartu denies the allegations of paragraph 77 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 77.

78. Cartu denies the allegations of paragraph 78 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 78.

79. Cartu denies the allegations of paragraph 79 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 79.

D. Fraudulent Misrepresentation and Deception

80. Cartu denies the allegations of paragraph 80 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 80.

81. Cartu denies the allegations of paragraph 81 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 81.

82. Cartu denies the allegations of paragraph 82 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 82.

83. Cartu denies the allegations of paragraph 83 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 83.

84. Cartu denies the allegations of paragraph 84 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 84.

85. Cartu denies the allegations of paragraph 85 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 85.

86. Cartu denies the allegations of paragraph 86 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 86.

E. Cartu and Masten Developed the Cartu Platform

87. Cartu denies the allegations of paragraph 87 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 87.

88. Cartu denies the allegations of paragraph 88 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 88.

89. Cartu denies the allegations of paragraph 89 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 89.

90. Cartu denies the allegations of paragraph 90 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 90.

91. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 91.

92. Cartu denies the allegations of paragraph 92 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 92.

93. Cartu denies the allegations of paragraph 93 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 93.

94. Cartu denies the allegations of paragraph 94 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 94.

95. Cartu denies the allegations of paragraph 95 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 95.

96. Cartu denies the allegations of paragraph 96 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 96.

97. Cartu denies the allegations of paragraph 97 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 97.

98. Cartu denies the allegations of paragraph 98 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 98.

99. Cartu denies the allegations of paragraph 99 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 99.

100. Cartu denies the allegations of paragraph 100 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 100.

101. Cartu denies the allegations of paragraph 101 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 101.

102. Cartu denies the allegations of paragraph 102 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 102.

103. Cartu denies the allegations of paragraph 103 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 103.

104. Cartu denies the allegations of paragraph 104 as it relates to Cartu. Cartu denies knowledge and information sufficient to respond to the remaining allegations in paragraph 104.

VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE

Violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 32.4, 17 C.F.R. § 32.4 (2022)

Commodity Options Fraud

(Against Jonathan Cartu, Leeav Peretz, Nati Peretz, and Blue Moon Investments, Ltd.)

105. Cartu repeats, reiterates, and realleges his responses to the allegations set forth above.

106. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 106.

- a. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 106(a).
- b. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 106(b).

107. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 107.

108. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 108.

109. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 109.

COUNT TWO

Violations of Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) and Regulation 180.1(a)(1)-(3), 17

C.F.R. § 180.1(a)(1)-(3) (2022)

Fraud by Deceptive Device or Contrivance

(Against Jonathan Cartu, Leeav Peretz, Nati Peretz, and Blue Moon Investments, Ltd.)

110. Cartu repeats, reiterates, and realleges his responses to the allegations as set forth above.

111. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 110.

112. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 112.

a. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 112(a).

b. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 112(b).

c. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 11(c).

113. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 113.

114. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 114.

115. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 115.

116. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 116.

COUNT THREE

Violations of Sections K4(3) and 4m(1) of the Act, 7 U.S.C. §§ 6k(3) and 6m(1)

**Failure to Register as a CTA (BareIt) and
Failure to Register as an AP of the CTA (Masten)**

117. Cartu repeats, reiterates, and realleges his responses to the allegations as set forth above.

118. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 118.

119. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 119.

120. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 120.

121. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 121.

122. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 122.

123. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 123.

COUNT FOUR

Violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 32.2, 17 C.F.R. § 32.2 (2022)

Illegal Off-Exchange Commodity Options

(Against Jonathan Cartu, Leeav Peretz, Nati Peretz, and Blue Moon Investments, Ltd.)

124. Cartu repeats, reiterates, and realleges his responses to the allegations as set forth above.

125. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 125.

126. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 126.

127. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 127.

128. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 128.

129. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 129.

130. Cartu denies knowledge and information sufficient to respond to the allegations in paragraph 130.

VII. RELIEF REQUESTED

In response to the unnumbered **WHEREFORE** paragraph, Cartu denies that the CFTC is entitled to recover any damages from Cartu or is entitled to any other form of relief from Cartu.

FIRST AFFIRMATIVE DEFENSE

1. The FAC fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

2. The CFTC's claims are barred, in whole or in part, by the lack of standing on the part of the CFTC to assert those claims.

THIRD AFFIRMATIVE DEFENSE

3. The CFTC's claims are barred, in whole or in part, by the applicable statutes of limitations.

FOURTH AFFIRMATIVE DEFENSE

4. The CFTC's claims are barred, in whole or in part, by the acts and omissions of the CFTC and/or Cartu's co-defendants.

FIFTH AFFIRMATIVE DEFENSE

5. The CFTC's claims are barred, in whole or in part, by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

6. The CFTC's claims are barred, in whole or in part, by the doctrine of estoppel.

SEVENTH AFFIRMATIVE DEFENSE

7. The CFTC's claims are barred, in whole or in part, by the doctrine of waiver.

EIGHTH AFFIRMATIVE DEFENSE

8. The CFTC's claims are barred, in whole or in part, by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

9. The CFTC's claims are barred, in whole or in part, by the doctrine of accord and satisfaction.

TENTH AFFIRMATIVE DEFENSE

10. The CFTC's claims are barred, in whole or in part, because Cartu did not act at any time with scienter.

ELEVENTH AFFIRMATIVE DEFENSE

11. The CFTC's claims are barred, in whole or in part, because none of the alleged misrepresentations or omissions were material.

TWELFTH AFFIRMATIVE DEFENSE

12. The CFTC's claims are barred, in whole or in part, because no investor reasonable relied on the alleged misrepresentations or omissions.

THIRTEENTH AFFIRMATIVE DEFENSE

13. The CFTC's claims are barred, in whole or in part, because the alleged misrepresentations and omissions, if any, were made by third parties over whom Cartu had no control.

FOURTEENTH AFFIRMATIVE DEFENSE

14. The CFTC's claims are barred, in whole or in part, to the extent alleged transactions occurred outside the United States or with non-United States residents.

FIFTEENTH AFFIRMATIVE DEFENSE

15. Cartu at all times acted in good faith and in the belief that his conduct conformed with all applicable laws and regulations.

SIXTEENTH AFFIRMATIVE DEFENSE

16. The CFTC's claims are barred, in whole or in part, because the alleged customer losses, if any, were caused by events over which, or the actions or inactions of third parties over whom, Cartu had no control.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. The CFTC's claims are barred, in whole or in part, to the extent alleged transactions occurred outside the United States or with non-United States residents.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. Cartu reserves the right to assert additional affirmative defenses upon the completion of discovery in this adversary proceeding.

WHEREFORE, Cartu respectfully requests the Court to:

- a. Dismiss the FAC in its entirety, with prejudice;
- b. Deny each and every demand, claim, and prayer for relief contained in the FAC;
- c. Award Cartu the reasonable attorneys' fees and costs they incur in defending this action; and
- d. Grant Cartu such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Cartu hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues or claims for which a jury trial is allowed.

Dated: October 23, 2023

Respectfully submitted,

/s/ Joe Kendall
Joe Kendall

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed with the Court's electronic case filing (ECF) system on October 23, 2023, which caused an electronic copy of this document to be served on all counsel of record in this matter who have registered for ECF service.

/s/ David B. Harrison

David B. Harrison